

**DRAFT PRELIMINARY REGULATORY EVALUATION,  
REGULATORY FLEXIBILITY DETERMINATION,  
TRADE IMPACT ASSESSMENT, AND  
UNFUNDED MANDATES ASSESSMENT**

**INTERIM FINAL RULE**

**FLIGHT TRAINING FOR ALIENS AND OTHER DESIGNATED  
INDIVIDUALS; SECURITY AWARENESS TRAINING FOR FLIGHT  
SCHOOL EMPLOYEES**

**(49 CFR Part 1552)**

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## BACKGROUND

On November 19, 2001, Congress enacted the Aviation and Transportation Security Act (ATSA).<sup>1</sup> Under Section 113 of ATSA, certain flight schools were prohibited from providing training to aliens and other designated individuals in the operation of aircraft with a maximum certificated takeoff weight (MTOW) of 12,500 pounds or more, unless: (1) the aviation training provider notified the Attorney General of the identity of the candidate seeking training, and (2) the Attorney General did not notify the aviation training provider within 45 days that the candidate presented a threat to aviation or national security. If the Attorney General determined that a candidate presented a threat to aviation or national security more than 45 days after receiving notification from the training provider, the Attorney General was required to notify the training provider. The training provider was then required to terminate the training immediately.

The Department of Justice (DOJ) final rule (68 FR 7313) was issued on February 13, 2003 to implement Section 113 of ATSA. The DOJ final rule established the Flight Training Candidate Checks Program (FTCCP). The FTCCP requires the flight training provider to submit to the DOJ certain identifying information (including fingerprints) for each alien candidate and other individuals designated by the TSA Administrator before training can be provided to the candidate in the operation of aircraft with an MTOW of 12,500 pounds or more. A flight training provider is not required to submit such information for U.S. citizens or nationals, unless they have been designated by the TSA Administrator.

The DOJ final rule applies to individual training providers, training centers, certificated carriers, and flight schools, including those located in countries other than the U.S. if they provide training leading to a U.S. license, certification, or rating. For purposes of the rule, training includes ground school, flight simulator, and in-flight training. The rule does not cover

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<sup>1</sup> Public Law 107-71, November 19, 2001.

the provision of training manuals or other materials or mechanical training that would not enable the trainee to operate an aircraft in flight.

Under the DOJ rule, the DOJ performs risk assessments based on the information submitted. If it determines that a candidate does not present a risk to aviation or national security, the DOJ notifies the candidate and the flight school that the candidate's training may be initiated. If it determines that a candidate does present a risk to aviation or national security, the DOJ notifies the provider that training is prohibited for the candidate.

Section 612 of Vision 100 – Century of Aviation Reauthorization Act (Pub. L. 108-176, December 12, 2003, 117 Stat. 2490) makes changes to Section 113 of ATSA. First, it transfers the threat assessment requirements from the Attorney General to the Secretary of Homeland Security, and requires the Secretary to issue an interim final rule (IFR) implementing Section 612. It also clarifies applicability to cover “a person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part.”

Section 612 specifies various categories of identifying information the Secretary can require providers to submit for candidates for training in the operation of aircraft with an MTOW of greater than 12,500 pounds. Section 113 of ATSA required a candidate's identifying information to be submitted “in such form as the Attorney General may require” (49 U.S.C. 44939 (a)(1)). However, Section 612 provides that the Secretary may require the following information to be submitted: the candidate's full name, including any aliases or variations in spelling; passport and visa information; country of citizenship; date of birth; dates of training; and fingerprints.

Section 612 also reduces the time to conduct a non-expedited threat assessment for candidates applying for flight training in the operation of aircraft with an MTOW of greater than

12,500 pounds from 45 days to 30 days. Additionally, it requires the Secretary to establish a process to ensure that the waiting period does not exceed 5 days for certain classes of pilots, such as pilots who are employed by a foreign air carrier that is certified under 14 CFR part 129 and that has a security program approved under 49 CFR part 1546.

Section 612 adds a notification requirement for training in the operation of aircraft with an MTOW of 12,500 pounds or less. It prohibits a flight training provider from providing training in the operation of an aircraft having an MTOW of 12,500 pounds or less to an alien or any other individual specified by the Secretary unless the provider has notified the Secretary that the individual has requested such training and furnished the Secretary with the individual's identification in a form required by the Secretary.

Section 612 also clarifies the definition of training that was in place under Section 113 of ATSA. Section 113 defined "covered training" as "in-flight training, training in a simulator, and any other form or aspect of training." Under Section 612, training means "training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes."

In addition to the above, Section 612 authorizes TSA to assess a fee to defray the costs TSA incurs in conducting the threat assessment. The fee may not exceed \$100 during fiscal year 2004. Beginning in fiscal year 2005, TSA will adjust the fee to \$130 per application to reflect the full recurring costs of the threat assessment. Finally, Section 612 mandates that the Secretary require flight schools to conduct a security awareness training program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.<sup>2</sup>

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<sup>2</sup> The Secretary delegated his responsibilities under Section 612 to TSA.

## **FLIGHT SCHOOL CANDIDATE POPULATION AND NUMBER OF APPLICATIONS**

TSA estimates that approximately 35,000 candidates will apply for flight training at flight schools subject to the TSA IFR. Based on the DOJ's experience with the FTCCP program, TSA believes that on average, candidates will submit two applications per year. This could be due to a candidate applying for subsequent flight training on a different type of aircraft or if the flight school does not initiate the candidate's training within 180 days of receiving the TSA approval, either of which requires re-application under the requirements of the IFR. Thus, TSA estimates that there will be 70,000 annual candidate applications (35,000 candidates x 2 applications each) for flight training at flight schools subject to the TSA IFR.

TSA will perform a complete security threat assessment each time a candidate submits an application. Therefore, TSA will incur the costs associated with performing a security threat assessment each time a candidate submits an application and thus charge the fee for each candidate application.

The estimate of 70,000 candidate applications per year is comprised of the following:

A. The number of candidate applications for training on aircraft having an MTOW of 12,500 pounds or greater is estimated to be approximately 32,000 annually. This estimate is based on data from the DOJ that indicates the total annual candidate applications for training under the FTCCP for calendar year 2003. According, TSA estimates that approximately 16,000 candidates will submit an average of 2 applications annually. While the DOJ does not track actual number of flight training candidates submitting multiple applications, the aforementioned assumption of two applications per year for each candidate still applies until TSA can further validate this assumption with its own operational data.

As mandated by Section 612, the IFR distinguishes between candidates who apply for flight training in the operation of aircraft with an MTOW greater than 12,500 pounds and candidates who apply for flight training in the operation of aircraft with an MTOW of 12,500 pounds or less. However, for purposes of estimates in this regulatory evaluation, TSA is distinguishing between candidates who apply for flight training in the operation of aircraft with an MTOW of 12,500 pounds or greater and candidates who apply for flight training in the operation of aircraft with an MTOW less than 12,500 pounds. TSA makes this distinction for the analysis in order to utilize available DOJ data for training under the FTCCP. The DOJ rule applied to candidates who apply for flight training in the operation of aircraft with an MTOW of 12,500 pounds or greater, which includes MTOW of exactly 12,500 pounds.

Most of the costs imposed upon candidates by the TSA IFR, with the exception of the TSA fee, were already imposed upon them by the DOJ rule. The new costs imposed by the TSA IFR are the TSA fee (for all candidates) and the other costs (such as the cost of fingerprinting and submitting the required information) imposed on candidates who apply for flight training in the operation of aircraft with an MTOW of less than 12,500 pounds (and thus were not subject to the DOJ rule). There is an overlap between the DOJ and TSA rules for MTOW of exactly 12,500 pounds. However, the IFR distinction about MTOW of 12,500 pounds or less does not affect the estimate for new costs imposed because applications for the overlap of group of MTOW of exactly 12,500 pounds were also subject to the DOJ rule. Thus, the previous statement with regard to costs already imposed by the DOJ rule is valid for applications in the overlap group.

B. The number of candidate applications for training on aircraft having an MTOW of less than 12,500 pounds is estimated to be 38,000 annually. This estimate is based on FAA Airman

Registry data. A discussion of how this estimate was derived from the FAA Airman Registry data follows.

The FAA does not record the number of certificates issued to foreign nationals. Instead, the FAA records the overall number of certificates issued annually to all persons, and it records the percentage of active non-U.S. citizens holding FAA certificates. The FAA estimates that the annual average of certificates issued to all persons over the last 6 years for this type of training is 106,000 certificates. The FAA estimates that 18% of these certificates were issued to non-U.S. citizens, which is equivalent to 19,000 certificates. Therefore, TSA estimates that approximately 19,000 candidates will submit requests for this type of flight training each year.

As noted above, TSA believes that each candidate will submit an average of two applications each year. Thus, TSA estimates the total annual number of applications for flight training on aircraft having an MTOW of less than 12,500 pounds to be 38,000 (19,000 candidates x 2 applications per year).

The estimates above are applicable to fiscal year 2005 and each year thereafter. Although the IFR becomes effective in 2004, implementation will begin near the end of the calendar year. Consequently, TSA expects the number of applications to be minimal through the remaining portion of 2004. Therefore, the TSA analysis begins with 2005.

## **COST OF COMPLIANCE**

Under provisions of the IFR, flight schools are required to notify TSA when aliens and other individuals designated by TSA apply for flight training. The flight school also is required to submit to TSA, a photograph of the candidate taken when the candidate arrives at the flight school for flight training. The IFR establishes standards relating to security threat assessments



that TSA will conduct to determine whether individuals present a threat to aviation or national security. In addition, the IFR establishes a fee to defray the costs of the security threat assessments that TSA will perform under this rule. Finally, the IFR requires flight schools to conduct security awareness training for certain employees using a training program designed by TSA or other programs that meet standards established by the IFR.

The fee established by the IFR will impose costs on flight school candidates. TSA intends to use a modified version of the DOJ process for submitting the required information, and intends to continue using the DOJ website. Nonetheless, the IFR will also impose additional costs on some flight schools. These costs will stem from collecting and maintaining the information required by the rule. In addition, flight schools will incur the cost of providing security awareness training for employees. The federal government will incur costs for transferring the FTCCP from DOJ to TSA, modifying the program for the revised requirements, and for contract and government personnel to support the program.

#### Cost to Flight School Candidates

The IFR establishes a fee for foreign flight school candidates, which will defray the costs of the security threat assessments that TSA will perform. The fee may not exceed \$100 through the end of fiscal year 2004. The fee will increase to \$130 in fiscal year 2005 and be adjusted as necessary thereafter to reflect the full recurring cost to TSA for performing the security threat assessment.<sup>3</sup> This fee is a cost imposed on flight school candidates. For purposes of this regulatory analysis, TSA kept the fee constant at \$130 for fiscal year 2005 and thereafter.

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<sup>3</sup> The fee level is below the cost for fiscal year 2004. The fee is capped at \$100 through the end of fiscal year 2004. Thereafter, Section 612 authorizes TSA to adjust the fee to reflect the full costs of security threat assessments.

Note that the fee does not include fingerprinting costs. Fingerprinting costs are discussed in a separate section below. Also, the total cost impact of the fee is captured in the cost to the Federal Government as discussed in that section of this document. Those costs are not repeated here to avoid double counting the costs as both a cost to candidates and as government costs.

### Fingerprint Collection and Processing Costs

The IFR will impose a cost for fingerprinting. There are a variety of options for fingerprint collection, and estimates for the cost of the fingerprinting process vary depending on where and how the fingerprints are collected and processed.

Costs for fingerprint collection and registration services typically range from \$15 (local law enforcement entities) to upwards of \$100 per individual. For this analysis, TSA assumed an average cost of \$49 per individual for fingerprint collection and registration services.

Additionally, there are costs for fingerprint “processing” – which include the cost the FBI charges to check fingerprints against its Criminal History Records Check (CHRC) database and all related technical system and administrative support costs.

Costs to “process” fingerprints once collected and transmitted (either electronically or via paper ink card) include the cost to prepare the prints and candidate’s required biographical information for submission to the FBI’s Criminal History Records Check (CHRC) database. These processing costs also include all systems required to return all “hits” of any criminal activity the FBI has on record from any candidates and to enable the notification of appropriate entities. In addition, fingerprint processing costs include any cost recovery or profit for an entity such as the American Association of Airport Executives (AAAE), which serves as a “clearing house” for the processing of fingerprints for TSA with other aviation populations requiring

background checks. Table 1 below shows the components of the cost of fingerprinting processing.

**TABLE 1**  
**AAAE COST RECOVERY FOR FINGERPRINT PROCESSING**

<b>Organization</b>	<b>Fingerprint Process Costs</b>
American Association of Airport Executives	\$4.00
Federal Bureau of Investigation	\$22.00
Total	\$26.00

Source: Interviews with personnel from the American Association of Airport Executives and the Federal Bureau of Investigation.

Based on the preceding discussion, TSA assumed total fingerprint collection/registration and processing costs to be \$75 per applicant (average collection costs of \$49 + processing costs of \$26 per applicant = \$75). Under the DOJ rule, candidates for flight training in the operation of aircraft with an MTOW of 12,500 pounds or greater were required to pay all costs associated with taking and processing their fingerprints. Accordingly, the IFR will only impose additional costs for fingerprinting for those applicants who were not subject to the DOJ rule, i.e. candidates for flight training in the operation of aircraft with an MTOW of less than 12,500 pounds.<sup>4</sup> The discussion of the candidate population earlier in this analysis indicates that this population is 19,000 annually. As noted in that discussion, candidates are expected on average to apply twice a year, which results in 38,000 applications annually. Therefore, the number of applications is expected to be 38,000 annually.

Using 38,000 applications annually thereafter, with an average cost of \$75 per application, TSA estimated the incremental cost of fingerprinting at \$2.9 million annually, and a total of \$28.5 million over a ten-year period. The present value of the cost is estimated at \$21.4

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<sup>4</sup> As noted above, the DOJ rule applied to candidates who applied for flight training in the operation of aircraft with an MTOW of 12,500 pounds or greater.

million over a ten-year period when discounted at 7 percent. Table 2 shows the total cost impact for fingerprinting.

**Table 2. Fingerprinting and Associated Costs**

<b>Year</b>	<b>Number of Applications</b>	<b>Unit Cost</b>	<b>Total Annual Cost</b>	<b>7% Discount Factor</b>	<b>Present Value</b>
			(000)		(000)
<b>2005</b>	38,000	\$75	\$2,850	1.0000	\$ 2,850
<b>2006</b>	38,000	\$75	\$2,850	0.9346	\$ 2,664
<b>2007</b>	38,000	\$75	\$2,850	0.8734	\$ 2,489
<b>2008</b>	38,000	\$75	\$2,850	0.8163	\$ 2,326
<b>2009</b>	38,000	\$75	\$2,850	0.7629	\$ 2,174
<b>2010</b>	38,000	\$75	\$2,850	0.7130	\$ 2,032
<b>2011</b>	38,000	\$75	\$2,850	0.6663	\$ 1,899
<b>2012</b>	38,000	\$75	\$2,850	0.6227	\$ 1,775
<b>2013</b>	38,000	\$75	\$2,850	0.5820	\$ 1,659
<b>2014</b>	38,000	\$75	\$2,850	0.5439	\$ 1,550
<b>Total</b>	380,000		\$28,500		\$21,418

### Opportunity Costs

Opportunity costs will be associated with the time that a candidate spends providing the required information and the estimated value of that time. TSA estimates that approximately 45 minutes will be required to collect the information from each candidate. More information on the 45-minute time requirement is provided in the Collection and Transmission of Information section of this regulatory evaluation.

The value of time for the candidate was based on the average salary for pilots and copilots in the operation of general aviation aircraft. The National Business Aviation Association (NBAA) reports the average, minimum, and maximum salaries for aviation occupations in its NBAA Compensation & Benchmark Survey. For 2003, the NBAA Compensation & Benchmark Survey reports an average annual salary of \$70,778 for a chief pilot in the operation of certain general aviation (GA) aircraft, and \$36,496 for a copilot in this type of

aircraft. TSA does not have an estimate of the number of student pilots or the number of pilots in training annually that are subject to the rule. Therefore, TSA assumed an average of the two salaries as its estimate for the value of time for flight school candidates. Based on this estimate, TSA assumed an average annual salary of \$53,637  $[(\$70,778 + \$36,496) / 2 = \$53,637]$ , and an hourly wage rate of \$27  $(\$53,637 / 2000 \text{ hours} = \$27)$ .

TSA believes that because the transmission of information is electronic, most of the 45-minute collection and transmission time is spent collecting or providing information. As noted above, the rule only imposes additional costs for the 19,000 candidates that apply for flight training in the operation of aircraft with an MTOW of less than 12,500 pounds, who were not subject to the DOJ rule. Therefore, TSA estimated the opportunity cost for these applicants as a result of the IFR at \$769,500 annually, based on:  $\frac{3}{4}$  of an hour spent providing the information; \$27 per hour value of time; and 19,000 candidates applying twice a year  $(\$27 \times .75 \times 38,000 = \$769,500)$ . The ten-year cost impact is estimated at \$7.7 million undiscounted, and \$5.8 million discounted at 7 percent.

#### Collection and Transmission of Information

The IFR prohibits a flight school from providing flight training to aliens and other individuals designated by TSA (candidates) unless the flight school or the candidate submits certain information to TSA.<sup>5</sup> Under the DOJ rule, flight schools submitted the information. For this analysis, TSA assumed flight schools would continue to collect and submit candidate information. Accordingly, the cost of collecting and transmitting information, excluding the cost of fingerprinting, was estimated based on the estimated number of candidates annually and the unit cost per application for flight schools to collect and submit the required information. IF

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<sup>5</sup> The IFR also requires that the candidate remit the specified fee to TSA and that TSA determines that the candidate is not a threat to aviation or national security as conditions for a flight school to provide flight training.

candidates submit information directly to the TSA Website, then collection and transmission costs would essentially be accounted for in opportunity costs for candidates, and the costs in this analysis would overstate information collection and transmission costs. TSA welcomes comments on these assumptions.

The unit cost for information collection and transmission was determined by the amount of time required to collect and transmit the information for each application and the wage rate of the flight school employee collecting and transmitting the information. Based on the DOJ experience, TSA estimated that it would take approximately 45 minutes per application for the collection and transmission of information. This time frame reflects the information requirements for the non-expedited candidates. For those candidates, the TSA form requires the following information:

- 1) The candidate's full name, including any aliases used by him or her, or variations in the spelling of his or her name;
- 2) A unique student identification number as a means of identifying records concerning the candidate;<sup>6</sup>
- 3) A legible copy of the candidate's current, unexpired passport and visa;<sup>7</sup>
- 4) The candidate's passport and visa information, including all current and previous passports and visas held by the candidate and all the information necessary to obtain a passport or visa;<sup>8</sup>
- 5) The candidate's country of birth, current country or countries of citizenship, and each previous country of citizenship, if any;
- 6) The candidate's actual date of birth or, if the candidate does not know his or her date of birth, the approximate date of birth used consistently by the candidate for his or her passport or visa;

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<sup>6</sup> When a candidate or flight school completes the TSA form on the website and submits it to TSA, the website generates a unique identification number for that candidate.

<sup>7</sup> A candidate may either scan his or her complete passport and submit it to TSA electronically, or copy his or her complete passport and fax it to TSA using the fax number provided on the website.

<sup>8</sup> More details on the type of visa and passport information required will be available on the website.

- 7) The dates and location of the candidate's requested training;
- 8) The type of training for which the candidate is applying, including the aircraft type rating the candidate would be eligible to obtain upon completion of the training;
- 9) The candidate's current U.S. pilot certificate, certificate number, and type rating, if any;
- 10) The candidate's fingerprints;
- 11) The candidate's current address and telephone number, as well as each address for the 5 years prior to the date of the candidate's application; and
- 12) The candidate's gender.

Providing this information also requires time to locate and make copies of certain documents. In consideration of such time factors and to avoid underestimating the impact of this requirement, TSA used the estimated time of 45 minutes to collect and transmit the information. Also, TSA assumed that an administrative person will handle the collection and transmission task for flight schools. According to the Bureau of Labor Statistics data on compensation (fully loaded wage rate), the hourly wage rate for a records clerk is \$13.62. Therefore, each hour spent on this effort will cost \$13.62.

As noted in the Candidate Population section of this document, TSA estimates that 35,000 candidates annually will apply for flight training. Based on data from the DOJ and the Federal Aviation Administration (FAA) Airman Registry, TSA estimates that 16,000 of the 35,000 candidates will apply for flight training in the operation of aircraft with an MTOW of 12,500 pounds or greater, and 19,000 will apply for flight training in the operation of aircraft with an MTOW of less than 12,500 pounds. The 16,000 candidates who apply for flight training in the operation of aircraft with an MTOW of 12,500 pounds or greater would have been subject to the DOJ rule. Thus, TSA assumes that the IFR will not impose any additional costs of

collection and transmission for these candidates. The IFR will only impose additional costs for the 19,000 candidates who apply for flight training in the operation of aircraft with an MTOW of less than 12,500 pounds because those candidates would not be subject to the DOJ rule.

TSA estimated the cost of compliance for collection and transmission of information at \$388,200 annually (\$13.62 per hour \*  $\frac{3}{4}$  hour \* 38,000 applications). This estimate is based on 19,000 candidates applying twice a year, which results in 38,000 applications. The total time required annually was estimated at 28,500 hours, based on 45 minutes for each of the 38,000 applications  $[(38,000 \times 45)/60=28,500]$ .

The total cost impact of this requirement is estimated at \$3.6 million undiscounted over a ten-year period. The present value of the ten-year cost impact is estimated at \$2.6 million when discounted at 7 percent. Table 3 shows the cost for collecting and transmitting the required information.

**Table 3. Collection and Transmission of Information**

Year	Number of Applications	Total Hours	Hourly Wage	Total Annual Cost	7% Discount Factor	Present Value
						(000)
2005	38,000	28,500	\$13.62	\$388,200	1.0000	\$ 388,200
2006	38,000	28,500	\$13.62	\$388,200	0.9346	\$ 362,800
2007	38,000	28,500	\$13.62	\$388,200	0.8734	\$ 339,100
2008	38,000	28,500	\$13.62	\$388,200	0.8163	\$ 316,900
2009	38,000	28,500	\$13.62	\$388,200	0.7629	\$ 296,200
2010	38,000	28,500	\$13.62	\$388,200	0.7130	\$ 276,800
2011	38,000	28,500	\$13.62	\$388,200	0.6663	\$ 258,700
2012	38,000	28,500	\$13.62	\$388,200	0.6227	\$ 241,700
2013	38,000	28,500	\$13.62	\$388,200	0.5820	\$ 225,900
2014	38,000	28,500	\$13.62	\$388,200	0.5439	\$ 211,100
<b>Total</b>	380,000			\$ 3,882,000		\$2,917,400



### Photograph Transmission Costs

The IFR requires flight schools to submit to TSA, in a form and manner acceptable to TSA, a photograph of the candidate taken when the candidate arrives for flight training. The photograph will help ensure that the person who was cleared by TSA is the person who receives the flight training. TSA will check the photograph submitted by the flight school against the photograph of the candidate that is taken when he or she enters the U.S. TSA intends to accept photographs either electronically (a digital or scanned photograph went by email) or via fax.

TSA estimates that there are approximately 3,000 flight training providers that will be subject to the IFR.<sup>9</sup> In addition to FAR 142 training centers, FAR 141 flight schools, and Part 61 training programs, flight training is performed at general aviation airports and universities. Notwithstanding the Small Business Administration (SBA) small business standard of \$21.5 million or less in revenue, most flight training providers can be considered small operations, with an estimated 5 or fewer employees. TSA recognizes that there are some very large operations -- such as Comair-Delta Academy, Embry-Riddle, Boeing-Alteon, and Pan Am Flight Academy -- that may use digital technology or scanning technology to electronically transmit photographs. However, for this analysis, TSA assumed that all of the approximately 3,000 flight schools would submit photographs to TSA via fax.

Flight schools currently collect photographs from flight training candidates for their own records. Consequently, TSA assumed that the requirement will not impose any costs for collection of photographs. Accordingly, TSA estimated the cost for collecting and submitting photographs based the number of fax machines required, the number of photographs to be faxed, and the cost to fax a photograph. Although it is likely that flight schools already have a fax machine, TSA assumed that in a worst-case scenario, all flight schools would be required to

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<sup>9</sup> Based on the latest available information from the FAA and the Experimental Airport Association (EAA).

purchase a fax at a minimum. TSA estimated the cost of a fax machine at \$100.<sup>10</sup> Based on \$100 per fax machine, TSA estimated the total cost for fax machines at \$300,000 (3,000 schools x \$100). TSA estimated annual maintenance at 10 percent of the aggregate purchase price or \$30,000 annually.

TSA does not have information on the cost to fax from a privately owned fax machine, but the cost to fax from a local Kinkos or Staples is \$1.00 per page. Therefore, TSA assumed a unit cost of \$1.00 to fax each photograph. As noted in this document in the section on Flight School Candidate Population, TSA estimated that there would be approximately 70,000 applications annually, which equates to the transmission of approximately 70,000 photographs.<sup>11</sup> Therefore, TSA estimated the cost to submit photographs at \$70,000 annually. Table 4 shows the total cost for transmission of photographs

**Table 4. Candidate Photograph Transmission Costs**

<b>Year</b>	<b>Cost of Fax Machines &amp; Maintenance</b>	<b>Cost to Fax Photos</b>	<b>Total Annual Cost</b>	<b>7% Discount Factor</b>	<b>Present Value</b>
	(000)	(000)	(000)		(000)
<b>2005</b>	\$ 300	\$ 70	\$370	1.0000	\$370
<b>2006</b>	\$ 30	\$ 70	\$100	0.9346	\$ 90
<b>2007</b>	\$ 30	\$ 70	\$100	0.8734	\$ 90
<b>2008</b>	\$ 30	\$ 70	\$100	0.8163	\$ 80
<b>2009</b>	\$ 30	\$ 70	\$100	0.7629	\$ 80
<b>2010</b>	\$ 30	\$ 70	\$100	0.7130	\$ 70
<b>2011</b>	\$ 30	\$ 70	\$100	0.6663	\$ 70
<b>2012</b>	\$ 30	\$ 70	\$100	0.6227	\$ 60
<b>2013</b>	\$ 30	\$ 70	\$100	0.5820	\$ 60
<b>2014</b>	\$ 30	\$ 70	\$100	0.5439	\$ 50
<b>Total</b>	\$ 570	\$ 700	\$1,270		\$1,020

<sup>10</sup> A Brother PPF1270e fax machine can be purchased at Staples for \$99.98.

<sup>11</sup> Incrementally, the IFR would only impose costs for candidates and applications that would not have been subject to the DOJ Rule (approximately 19,000 candidates and 38,000 applications annually). However, because this was not is a new requirement in the DOJ Rule, the IFR would impose transmission costs for all of the approximately 70,000 estimated photographs (based on 70,000 applications) transmitted annually.

## Security Awareness Training

The IFR requires flight schools to conduct security awareness training for employees who have direct contact with flight school students, such as flight instructors and chief pilots. Some administrative personnel might also have contact with flight students. Under the IFR, flight schools will be required to provide initial security awareness training to such employees within a prescribed time period and to provide recurrent training on an annual basis.

TSA is developing a web-based training module titled Flight School Security Awareness Training. It will be delivered via the TSA Public Domain Web Site and on stand-alone CD-Rom. For initial training, flight schools have the option of using the security awareness training program developed by TSA, or creating their own training program. Security awareness training programs developed by flight schools must meet standards and criteria established in the IFR.

A few of the larger flight schools may want to develop their own security awareness programs. However, TSA assumes that most flight schools will opt for the TSA-developed training for initial training because it will be less expensive than the cost of developing a separate security awareness training program. TSA recognizes that many flight schools currently conduct some form of security awareness training for their employees and that this training could satisfy the flight school option of creating its own training program. Flight schools that do not opt for the TSA-developed training will likely use currently existing security awareness training at no additional cost for development. Such training must meet the criteria set forth in the IFR for an alternative initial security awareness training program, but a flight school will not be required to submit its alternative training program to TSA for approval. Rather, TSA officials may audit a flight school's alternative training program when inspecting the flight school.

For recurrent training, flight schools will be required to design their own training program or use a training program created by a third party. A recurrent training program must contain information regarding any new security measures or procedures implemented by a flight school, such as the installation of fencing, new uniforms or identification for employees, or the implementation of new entry procedures. In addition, a recurrent training program will be required to contain any incidents involving, or new threats posed by general aviation (GA) aircraft. TSA will post such information regarding GA aircraft on the TSA GA website at <http://www.tsa.gov/public/display?theme=180>. A recurrent training program will also be required to contain any new TSA guidelines or recommendations concerning the security of GA aircraft or flight schools. This information also will be available on the TSA GA website.

TSA assumed that flight schools will draw from or modify their initial security awareness programs to create recurrent training. This method will minimize the cost of developing recurrent training. TSA estimates that the time required will be 4 hours annually per flight school and 12,000 annually in total (3,000 flight schools x 4 hours = 12,000 hours). This includes downloading and incorporating into the training, new TSA information, guidelines, and recommendations from the website, and any new security measures or procedures implemented by the flight school. TSA also assumes that recurrent training will be developed in the same year as initial training and modified each year thereafter.

TSA estimated the total cost of security awareness training based on the assumptions above: adoption of the TSA program for initial training, modifying initial training to create and update recurrent training, the number of employees to be trained, and the time required for training per employee. The TSA initial training program will require approximately an hour and

a half to two hours per employee trained. TSA assumes the same will be true for recurrent training.

As noted earlier, TSA estimates that there are approximately 3,000 flight training providers that will be subject to the IFR.<sup>12</sup> Notwithstanding the Small Business Administration (SBA) small business standard of \$21.5 million or less in revenue, most flight training providers can be considered small operations, with an estimated 5 or fewer employees. However, there are some very large operations, such as Comair-Delta Academy, Embry-Riddle, Boeing-Alteon, and Pan Am Flight Academy, that employ 300-400 people who would likely have some direct contact with students, and thus be required to receive security awareness training.<sup>13</sup>

TSA estimated the total number of employees requiring security awareness training at approximately 14,000. This estimate is based on small operations having 5 or fewer employees and 15 large training providers having 300-400 employees who would have some direct contact with students. (See footnote 9.) For the 15 large training providers, TSA assumed a mid-point of 350 employees. TSA does not have information on the distribution of providers without paid employees versus those with 1 to 5 employees. Consequently, TSA assumed a mid-point of 2.5 employees for small operations, but rounded it up to 3 employees to avoid underestimating the number of employees. As a result, TSA estimated that the 15 large flight schools would be required to provide initial security awareness training to over 5,000 employees (15 x 350) and the remaining 2985 providers would provide training for approximately 9,000 employees (2985 x 3). In total, approximately 14,000 employees would receive initial security awareness training during the first year of the IFR (5,000 + 9,000 = 14,000). Thereafter, 14,000 total employees

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<sup>12</sup> Based on the latest available information from the FAA and the Experimental Airport Association (EAA).

<sup>13</sup> The 1997 Economic Census shows that about 15 flight schools have 500 or more employees. However, TSA believes that only 300-400 employees at these schools would have contact with flight school candidates based on information from TSA's office of Aviation Operations.

annually would receive either initial security awareness training or recurrent training. This estimate factors in employee turnover, with new employees receiving initial training and existing employees receiving recurrent training.

TSA does not know the average salary per employee. Using information from the Bureau of Labor statistics (BLS), TSA assumed an average hourly rate of \$30.00 for teachers, and \$15.00 for administrative employees.<sup>14</sup> Based on an average of the two, TSA estimated an average salary of \$22.50 per employee. TSA assumed the same rate to estimate the cost to create a recurrent training program and update recurring training annually. Using this average rate, 1,200 hours annually to create and update recurrent training, and 2 hours of training time per employee, TSA estimated the cost for security awareness training at \$900,00. The present value of the cost impact over a ten-year period is estimated at \$6.8 million when discounted at 7 percent as shown in table 5.

**Table 5. Cost of Security Awareness Initial & Recurrent Training**

<b>Year</b>	<b>Number of Employees</b>	<b>Total Annual Training Hours</b>	<b>Create &amp; Update Recurrent Training (Hours)</b>	<b>Total Annual Hours</b>	<b>Hourly Wage</b>	<b>Total Annual Cost</b>	<b>7% Discount Factor</b>	<b>Present Value</b>
						(000)		(000)
<b>2005</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	1.0000	\$900
<b>2006</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.9346	\$841
<b>2007</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.8734	\$786
<b>2008</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.8163	\$735
<b>2009</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.7629	\$687
<b>2010</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.7130	\$642
<b>2011</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.6663	\$600
<b>2012</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.6227	\$560
<b>2013</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.5820	\$524
<b>2014</b>	14,000	28,000	12,000	40,000	\$22.50	\$900	0.5439	\$490
<b>Total</b>						\$9,000		\$6,763

<sup>14</sup> BLS average wage for administrative officials, trade and industry teachers, and general administrative.

### Data Retention

The IFR requires a flight school to maintain on record for a minimum of 5 years, a copy of the information required under the rule. Cost for maintaining this information will be imposed as a result of the requirement. Records must generally be maintained at flight schools for 3 years to comply with FAA regulations. TSA believes that a 5-year period is necessary for alien flight students for identification and investigative purposes in the event that an individual who has received flight training commits a criminal or terrorist act afterwards. TSA estimates the yearly cost for retaining records on pilot applicants and on employee security training at \$1,500 per school, and a total of \$4.5 million annually, based on 3,000 flight schools ( $\$1,500 \times 3,000 = \$4,500,000$ ).

### Government Costs

The IFR will impose costs on the government for completing security threat assessments on candidates who apply for flight training. Government costs are divided into two main categories: start-up costs and recurring annual costs. Start-up costs represent the cost of all resources necessary for TSA to establish the alien flight students program, including expenses related to the transition of the program from DOJ to TSA. Recurring costs reflect the resources necessary for TSA to support the program, perform ongoing security threat assessments on candidates, and notify flight schools and candidates of the results. Because they are the basis for establishing the IFR fee, these costs account for the incremental cost to candidates to apply for flight training, which is reflected in the fee that these candidates must remit to TSA. Note that TSA will only recover recurring, rather than start-up costs.

TSA estimates that the total start-up costs will be approximately \$3.0 million. These start-up costs include: \$1.5 million for hardware and software (including transfer and modification of the website application system); \$471,000 for contract personnel to support the transfer and modification of the website system and the applicant assessment system; and \$1.0 million for facilities build out.

Recurring operations begin during fiscal year 2004. TSA estimates that the total annual recurring costs will be \$9.1 million. The annual recurring costs include \$375,000 for hardware and software maintenance and upgrades; \$4.0 million for contract personnel to maintain the applicant assessment system and front end website application; \$30,000 Federal employee travel; \$250,000 for processing fee payments and \$4.4 million for terrorist threat assessments.

Table 6 summarizes the components of government start-up and recurring cost estimates. More detailed information is shown in a separate document in the public docket.



TABLE 6. GOVERNMENT START-UP &amp; RECURRING COST ESTIMATES

Category Description	Start-Up	Recurring
<b>Hardware/Software</b>		
Transfer and modify Flight Training Candidate Checks Program (FTCCP) designed "front-end" website application system	\$376,000	\$0
Transfer and modify FTCCP designed applicant assessment system	\$1,054,000	\$0
Transfer and modify FTCCP designed helpdesk system .....	\$70,000	
Develop automated access to the Interpol system .....	\$0	\$0
Maintain and refresh "front-end" website application system ....	\$0	\$94,000
Maintain and refresh applicant assessment system.....	\$0	\$263,500
Maintain and refresh helpdesk system .....	\$0	\$17,500
<b>Total .....</b>	<b>\$1,500,000</b>	<b>\$375,000</b>
<b>Contract Employee</b>		
Contract personnel to support transfer and modification of "front-end" website application system.....	\$241,800	\$0
Contract personnel to support transfer and modification of applicant assessment system .....	\$229,000	\$0
Contract personnel to maintain "front-end" website application system.....	\$0	\$336,000
Contract personnel to maintain applicant assessment system.....	\$0	\$1,900,800
Contract personnel for help desk .....	\$0	\$403,200
Contract security assessment personnel .....	\$0	\$1,382,400
<b>Total .....</b>	<b>\$470,800</b>	<b>\$4,022,400</b>
<b>Federal Employee</b>		
Travel	\$0	\$30,000
<b>Total .....</b>	<b>\$0</b>	<b>\$30,000</b>
<b>Rent/Build out</b>		
Facilities (build out).....	\$1,000,000	\$0
Facilities (rent, utilities, . . .) .....	\$0	\$0
<b>Total .....</b>	<b>\$1,000,000</b>	<b>\$0</b>
<b>Other Costs</b>		
Terrorist threat analysis.....	\$0	\$4,410,000
Fee payment processing .....	\$70,000	\$250,000
<b>Total .....</b>	<b>\$70,000</b>	<b>\$4,660,000</b>
<b>Total Costs .....</b>	<b>\$3,040,800</b>	<b>\$9,087,400</b>

TSA estimates total Federal government costs at \$84.8 million undiscounted over a ten-year period. The present value of the cost is estimated at \$62.2 million discounted at 7 percent.

Table 7 shows the total government cost impact.

**Table 7. Total Federal Government Costs**

<b>Year</b>	<b>Start Up (Nonrecurring) Costs</b>	<b>Hardware/ Software Upgrades &amp; Maintenance</b>	<b>Personnel Costs</b>	<b>Total Travel</b>	<b>Threat Analysis and Fee Processing</b>	<b>Total Annual Net Costs (less Fees)</b>	<b>7% Discount Factor</b>	<b>Present Value</b>
	(000)					(000)		(000)
<b>2004</b>	\$ 3,040.8					\$ 3,040.8	1.0000	\$ 3,040.8
<b>2005</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.9346	\$ 8,493.0
<b>2006</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.8734	\$ 7,9367.0
<b>2007</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.8163	\$ 7,418.0
<b>2008</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.7629	\$ 6,933.0
<b>2009</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.7130	\$ 6,479.0
<b>2010</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.6663	\$ 6,055.0
<b>2011</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.6227	\$ 5,658.0
<b>2012</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.5820	\$ 5,288.0
<b>2013</b>		\$375.0	\$4,022.4	\$30.0	\$4,660.0	\$ 9,087.4	0.5439	\$ 4,942.0
<b>Total</b>	\$ 3,000.0	\$ 3,375.0	\$ 36,200.0	\$ 300.0	\$ 41,940.0	\$ 84,827.4		\$ 62,246.0

### Summary of Costs

The IFR will impose costs on flight training providers for collecting and transmitting identifying information for flight training candidates, providing security awareness training for employees, and retaining and maintaining information on flight training candidates and records on security awareness training. The IFR does not impose any new costs for requirements that already exist under the DOJ rule. Candidates for flight training in the operation of aircraft with MTOW of 12,500 pounds or greater were subject to the DOJ rule. Consequently, the IFR will only impose costs (other than the cost of the TSA fee) on candidates who were not subject to the DOJ rule: candidates for flight training in the operation of aircraft with an MTOW of less than 12,500 pounds.

The IFR establishes a fee to defray the recurring costs of security assessments, which will increase the cost of U.S. flight school training. In addition, incremental costs will be imposed on candidates for flight training in the operation of aircraft with an MTOW of less than 12,500 pound for fingerprinting and the time (opportunity costs) to provide information required by the IFR. Also, flight training providers will incur costs for collecting and transmitting identifying information and for security awareness training for employees.

TSA does not know whether any costs incurred by flight training providers will be passed on to students in the form of a price increase for flight training. However, TSA does not expect a significant impact on the overall demand for U.S. flight school training as a result of the IFR. The IFR impacts alien candidates and other designated individuals for U.S. flight training. The population of alien candidates is small relative to the total number of U.S. flight students annually. Based on its experience with the DOJ rule, TSA anticipates that it will designate individuals other than aliens (other designated individuals) for a threat assessment rarely, if ever. Therefore, TSA believes that the number of other designated individuals for a threat assessment under the IFR will be minimal.

Foreign flight students apply for U.S. flight training primarily because FAA certificates are generally regarded as a global standard for flight training, recognized by most countries internationally. Also, it is comparatively less expensive to obtain a pilot's certificate in the U.S. than to obtain such in their own countries for most foreign candidates. Even when expenses such as the travel and lodging associated with training in the U.S. are factored in, the cost to obtain a U.S. pilot's certificate is less expensive than in many foreign countries.

Although the fee increases the cost for alien candidates to obtain a pilots certificate in the U.S., the new fee will represent only a small portion of the total cost of obtaining flight training

in the U.S. The average cost of obtaining flight training in the U.S. is more than \$4,000.<sup>15</sup> The TSA fee will be an additional \$100 initially, and will increase to \$130 in fiscal year 2005. Even with the increase to \$130, the fee reflects little more than a 3 percent increase in the cost of U.S. flight training. If the fingerprinting and opportunity costs are factored in, the increase still only reflects 5 percent of the total cost to obtain a flight certificate. TSA does not believe that a 5 percent increase will have a significant impact on the demand for U.S. flight training. TSA welcomes comments on this assumption.

The total cost of compliance is summarized in table 8.

**Table 8. Total Costs of Compliance**

Year	Collection & Transmission of Information	Finger-printing	Opportunity Costs	Photo Transmission	Data Retention	Security Awareness Training	Government	Total Annual Costs	7% Discount Factor	Present Value
	(000)	(000)	(000)	(000)	(000)	(000)	(000)	(000)		(000)
2005	\$388.2	\$2,850	\$ 769.5	\$370	\$4,500.0	\$900	\$ 3,040.8	\$ 9,855.0	1.0000	\$ 12,800.0
2006	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.9346	\$ 17,400.0
2007	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.8734	\$ 16,200.0
2008	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.8163	\$ 15,200.0
2009	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.7629	\$ 14,200.0
2010	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.7130	\$ 13,300.0
2011	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.6663	\$ 12,400.0
2012	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.6227	\$ 11,600.0
2013	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.5820	\$ 10,800.0
2014	\$388.2	\$2,850	\$ 769.5	\$100	\$4,500.0	\$900	\$ 9,087.4	\$ 18,495.0	0.5439	\$ 10,100.0
<b>Total</b>	\$3,882.0	\$28,500	\$ 7,695.0	\$1,270	\$45,000.0	\$9,000	\$ 84,827.4	\$180,170.0		\$134,000.0

<sup>15</sup> Flight training costs vary by size of aircraft. The hourly rate for training in the operation of large aircraft is higher than for training in aircraft with MTOW less than 12,500 pounds. However, factors like the cost of fuel and more customized training drive up the total cost of training in the operation of smaller aircraft. By contrast, the use of simulators for training in larger aircraft keeps the total cost from fluctuating too far above the cost of training for smaller aircraft. When customized or tailored training, the cost of fuel, and the use of simulators are factored in with hourly rates, the total cost for training does not fluctuate far from the average of \$4,000, even for the smaller aircraft.

## **ANALYSIS OF BENEFITS**

The primary benefit of the proposed rule will be increased protection of U.S. citizens and property from acts of terrorism. The requirements of this IFR decrease the chance that a flight school student who poses a security threat will be able to receive flight training from a U.S. flight school in the operation of aircraft that could be used in an act of terrorism. The IFR also improves security at flight schools through the requirement for security awareness training.

It is difficult to predict the probability of a terrorist attack. Even when the probability is low, the impact of such an attack can be devastating. As illustrated by the September 11, 2001 terrorist attacks, loss of life and property damage could be tremendous. Another possible impact of a terrorist attack could be an economic shock or slowdown. Although not quantified, the avoidance of such impacts is a major benefit of the enhanced security of the IFR.

### **Comparison of Costs and Benefits**

This rule will provide the American people with added protection from terrorist attempts to become proficient in the operation of aircraft for the purpose of attacking American persons and property. The costs to achieve the level of security protection have been measured and are estimated at \$134.0 million over the next 10 years when discounted at 7 percent. While it is impossible to quantify the benefits of the increased security that is expected to be achieved by the requirements established in this IFR, TSA believes that the actions that this IFR prescribes will achieve the goals anticipated by the legislation that established the requirement. The safety and security of the American people as a result of drastically reducing any opportunity for terrorists to attain the ability to use aircraft as weapons against America and its allies more than

justify the investment that this IFR requires. Moreover, this IFR strives to achieve these goals in the least costly manner as possible.

### **Regulatory Flexibility Determination**

The Regulatory Flexibility Act (RFA) of 1980, as amended, was enacted by Congress to ensure that small entities (small businesses, small not-for-profit organizations, and small governmental jurisdictions) are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires agencies to review rules to determine if they have “a significant economic impact on a substantial number of small entities.” Section 603(a) of the Regulatory Flexibility Act requires that agencies prepare and make available for public comment an initial regulatory flexibility analysis whenever the agency is required by law to publish a general notice of proposed rulemaking. Section 612 of Vision 100—Century of Aviation Reauthorization Act requires TSA to promulgate an interim final rule implementing the requirements of Section 612. Accordingly, TSA has not prepared an initial regulatory flexibility analysis for this rule.

### **Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et seq.), a Federal agency must obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. This interim final rule contains information collection activities subject to the PRA. Accordingly, the following information requirements are being submitted to OMB for its review.

**Title:** Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees.

**Summary:** In response to recent statutory requirements, TSA is requiring certain flight schools to notify TSA when aliens or other individuals designated by TSA apply for flight training. TSA also is establishing standards relating to the security threat assessments TSA will conduct to determine whether such individuals are a threat to aviation or national security, and thus prohibited from receiving flight training. Finally, TSA is establishing standards relating to security awareness training for certain flight school employees, to include keeping records of all such training.

**Use of:** Flight schools will be required to provide TSA with identifying information and fingerprints on aliens and other designated individuals when such persons apply for flight training and then keep this information on file for the required amount of time. TSA will use this information to perform background checks in order to assess if the flight training applicant poses a security risk. Flight schools will also be required to keep applicant records as well as records of security awareness training provided to employees so that TSA may inspect those records when necessary.

**Respondents (including number of):** The likely respondents to this proposed information requirement are aliens and other designated individuals who apply for pilot training and the flight schools they attend, which is estimated to be approximately 35,000 applicants every year and 3,000 flight schools nationwide for a total of 38,000 respondents.

**Frequency:** The respondents are required to provide the subject information every time an alien or other designated individual applies for pilot training as described in this rule, which is estimated to be an average of two times per year for a total of 70,000 responses. Records are required to be kept from the time they are created.

**Annual Burden Estimate:** It is estimated that it will take 45 minutes per application to provide TSA with all the information required by this rule, for a total burden of 52,500 hours per year. Records must be retained from the time they are created, and it is estimated that each of the 3,000 flight schools will carry an annual recordkeeping burden of 104 hours, for a total of 312,000 hours. Thus, the combined hour burden associated with this collection is estimated to be 364,500 hours annually. With regards to costs, it is estimated that there will be an annual cost burden of \$205 per application, which includes the TSA fee of \$130 beginning in fiscal year 2005 and an estimated average cost of collecting, transmitting and processing fingerprints of \$75, for a total annual burden of \$14.35 million. The yearly record keeping costs for each of the estimated 3,000 flight schools for retaining records on both pilot applicants and employee security training is estimated to be \$1,500, for a total annual burden of \$4.5 million. Thus the combined cost burden associated with this collection is estimated to be \$18.85 million annually.

For fiscal year 2004 (from program inception to September 30, 2004), the fee per application may not exceed \$100. Thus, for fiscal year 2004, the combined cost burden associated with this collection is estimated to be \$16.75 million (\$100 application fee + \$75 average cost of collecting and transmitting fingerprints \* 70,000 applications = \$12.25 million. \$12.25 million + \$4.5 million cost for flight schools to retain records = \$16.75 million).

The agency is soliciting comments to--

- (1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and



(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments on the information collection requirement by [Insert date 60 days after publication in the Federal Register], and should direct them via fax to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: DHS-TSA Desk Officer, at (202) 395-5806. Comments to OMB are most useful if received within 30 days of publication.

As protection provided by the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the Federal Register after OMB approves it.

### **Executive Order 13132 (Federalism)**

Executive Order 13132 requires TSA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under the Executive Order, TSA may construe a Federal statute to preempt State law only where, among other things,

the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.

This action has been analyzed in accordance with the principles and criteria in the Executive Order, and it has been determined that this interim final rule does not have Federalism implications or a substantial direct effect on the States.

### **Unfunded Mandates Reform Act**

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires TSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows TSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This interim final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually, or in any one year. TSA has not prepared a written assessment under the UMRA.

### **Environmental Analysis**

TSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this final rule will not have any significant impact on the quality of the human environment.

### **Energy Impact**

TSA has assessed the energy impact of this rule in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94-163, as amended (42 U.S.C. 6362). TSA has determined that this rule is not a major regulatory action under the provisions of the EPCA.

### **Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA will continue to consult with Mexico and Canada under the North American Free Trade Agreement to ensure that any adverse impacts on trade are minimized. This rule applies to flight schools and individuals applying for flight training. TSA has determined that this rule will have no impact on trade.